

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
SCHLESS, ELY :
Serial No.: Filed herewith : Group Art Unit:
Filed: Filed herewith : Examiner:
For: FRAMES FOR ELECTRIC MOTOR DRIVEN CYCLES

CERTIFICATE OF MAILING BY EXPRESS MAIL (37 C.F.R. § 1.10)

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Date: October 31, 2003



Suzi McCraw

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
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PRELIMINARY REMARKS

Commissioner:

These preliminary remarks are being filed concurrently with a continuation application of Application No. 10/147,630, filed May 16, 2002 (the "Parent Application").

On July 15, 2003, the Patent Office issued an action on the Parent Application. The action resulted in claims 1-7, 11-22 and 26-30 being rejected, but indicated that dependent claims 8-10 and 23-25 were directed to patentable subject matter. Although Applicant traversed these rejections, certain amendments were made to obtain immediate allowance. In particular, claim 1 was amended to incorporate the limitations of allowed claim 8, and claim 16 was amended to

incorporate the limitations of allowed claim 23. The remaining claims were dependent from either claim 1 or 16, thereby placing the Parent Application in immediate condition for allowance.

A continuation of the Parent Application is now being filed. The continuation application includes two independent claims: claim 1 and claim 10. Claim 1 is substantially the same as claim 3 in the Parent Application, and claim 10 is substantially the same as claim 18 in the Parent Application. These claims were previously rejected in the July 15 action under 35 USC § 102(e) as allegedly being anticipated by Turner (US 6,296,072). These rejections are respectfully traversed.

Applicant discloses a novel and unobvious monocoque frame for an electric motor driven cycle. The monocoque frame has a lightweight construction which tends to increase performance of the electric motor driven cycle in terms of extended range. An electric motor may be coupled to the frame in a way that makes it a load bearing member. By using the electric motor as a load bearing element, the weight of the frame can be further reduced thereby resulting in an overall high performance design.

In the Parent Application, the Patent Office took the position that Tuner disclosed Applicant's approach. Turner discloses a bicycle having a monocoque frame portion surrounding one or more batteries. The batteries are used to drive an electric motor which provides mechanical power to the bicycle. However, Turner does not teach or suggest using the electric motor as a load bearing element of the monocoque frame portion. Rather, the electric motor is part of the swing arm assembly.

Referring now to the specific claims, Applicant submits that they recite subject matter which is neither disclosed nor suggested by the art of record. Independent claims 1 and 10, for example, each recite an "electric motor being a load-bearing member of the [monocoque] frame." (emphasis added). Claims 2-9 are dependent from claim 1, and claims 11-18 are dependent from claim 10, and therefore, each of these claims also require an electric motor which is a load bearing element of the frame. Accordingly, Turner is legally insufficient to support an anticipatory rejection.

In view of the foregoing preliminary remarks, Applicant respectfully requests timely indication of allowance. Should any issues remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone Applicant's undersigned attorney.

Respectfully submitted,


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